

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-1075

Mark R. Kilmartin,

Appellant,

v.

David Dormire, and as yet unidentified
and unknown number of correctional
officers, in their individual and official
capacities,

Appellee.

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Appeal from the United States
District Court for the
Western District of Missouri.

[UNPUBLISHED]

Submitted: October 4, 2001
Filed: October 11, 2001

Before HANSEN, FAGG, and BEAM, Circuit Judge.

PER CURIAM.

Mark Kilmartin appeals the district court's¹ denial of his Federal Rule of Civil Procedure 60(b) motion, which he filed more than a year after the court entered an adverse final judgment, claiming that the court and his attorney had failed to notify him of the judgment. Having carefully reviewed the record and the parties'

¹The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri.

submissions on appeal, we conclude that the district court did not abuse its discretion in denying the motion. See Fed. R. Civ. P. 60(b) (motions for relief from judgment because of mistake, inadvertence, surprise, or excusable neglect must be made within one year); Liberty Mut. Ins. Co. v. FAG Bearings Corp., 153 F.3d 919, 924 (8th Cir. 1998) (standard of review); Inman v. Am. Home Furniture Placement, Inc., 120 F.3d 117, 118-19 (8th Cir. 1997) (affirming district court's refusal to set aside default judgment under Rule 60(b)(6) because litigants had relied on their attorney, who had not filed an answer to the complaint or responded to discovery requests; "[l]itigants choose counsel at their peril"); Zimmer St. Louis, Inc. v. Zimmer Co., 32 F.3d 357, 359-61 (8th Cir. 1994) (Rule 60(b)(6) may not be used to cure problems of lack of notice). Accordingly, we affirm the judgment of the district court. See 8th Cir. R. 47B.

We deny Kilmartin's pending motions.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.